

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID S. BREED,
WILBUR E. DUVALL and
WENDELL C. JOHNSON

Appeal No. 2002-0029
Application 09/437,535

ORDER REMANDING TO EXAMINER

On July 11, 2000, applicants filed a request for a "TERMINAL DISCLAIMER" (No Paper No.). On July 13, 2000, the Patent and Trademark Office charged applicants' account \$110.00 processing fee for a Terminal Disclaimer. To date, the Terminal Disclaimer filed July 11, 2000 remains unentered in the official record, has not been considered or processed. Action is required by the examiner.

The applicants filed an "AMENDMENT UNDER 37 C.F.R. §1.116" (Paper No. 10) on November 14, 2000. An Advisory Action (Paper No. 11, mailed November 28, 2000) indicates that the Amendment

Appeal No. 2002-0029
Application No. 09/437,535

(Paper No. 10) would be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees. A physical review of the official record reveals that the Amendment (Paper No. 10) has not been entered. The current non-entry of the Amendment (Paper No. 10) does not comply with 37 CFR § 1.122(a).

Accordingly, it is

ORDERED that the application is remanded to the examiner for resolution of the following issues:

- entry, consideration and processing of applicants' request for a Terminal Disclaimer filed July 11, 2000;
- physical entry of applicants' approved Amendment (Paper No. 10, filed November 14, 2000);
- appropriate notification to applicants of the actions taken regarding the Terminal Disclaimer and the Amendment (Paper No. 10); and
- for such further action as may be appropriate.

Appeal No. 2002-0029
Application No. 09/437,535

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

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Appeal No. 2002-0029
Application No. 09/437,535

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